REMARKS

Claims pending in the instant application are numbered 1-34. Claims 1-34 presently stand rejected. The Applicant respectfully requests reconsideration of the present application in view of the following remarks.

35 U.S.C. § 102 Rejections

Claims 1-34 are rejected under 35 U.S.C. § 102(e) as being anticipated by Edholm, U.S. Pub. No. US2003/0067940.

A claim is anticipated only if each and every element of the claim is found in a reference (M.P.E.P. § 2131 citing *Verdegaal Bros. v. Union Oil Co. of California,* 814 F.2d 628 (Fed. Cir. 1987)). The Applicant respectfully submits that the cited reference fails to disclose each and every element of the claimed invention.

Claim 1 expressly recites:

"disabling a normal incoming packet procedure in response to the level of the packet queue satisfying an entry condition and enabling an alternate incoming packet procedure."

Edholm is directed to end node pacing. A bandwidth is negotiated between an end node, such as a client, and a network. The bandwidth determines the transmission rate of packets. A control application at a client maintains the negotiated bandwidth by adjusting the latency between transmitted packets (paragraphs [0009] and [0026]).

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Referring to Figure 3 of Edholm, control application 332 determines if the bandwidth limitations of the transmission rate have been exceeded. When the bandwidth limitations have not been exceeded a packet is allowed to be transmitted, but when the bandwidth limitations have been exceeded the packet is not allowed to be transmitted. Thus, the control application 332 changes between sending packets and not sending packets in response to bandwidth limitations. The threshold level in Figure 6 of Edholm pertains to transmission bandwidth and not to the level of a packet queue. Indeed, on page 8 of the instant Office Action, the Examiner states that Edholm discloses that bandwidth limitation determines when data packets are allowed to be released.

In contrast, the Applicant claims "disabling a normal incoming packet procedure in response to the level of the packet queue." Thus, Edholm fails to disclose or suggest switching between a normal incoming packet procedure and an alternative incoming packet procedure in response to the level of a packet queue, as claimed by the Applicant.

Thus, Edholm fails to disclose at least one of the expressly recited limitations of claim 1. Accordingly, the present invention is not anticipated by Edholm. Independent claims 22, 25, and 30 distinguish for at least the same reasons as claim 1. Claims 2-21, 23-24, 26-29 and 31-34 are dependent claims and distinguish for at least the same reasons as their independent base claims in addition to adding further limitations of their own. Therefore, the Applicant respectfully requests that the instant § 102 rejections be withdrawn.

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Conclusion

The Applicant submits that in view of the remarks set forth herein, all pending claims are in condition for allowance. Therefore, the Applicant respectfully requests the Examiner to issue a Notice of Allowance in this case.
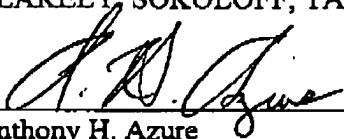
Charge Deposit Account

Please charge our Deposit Account No. 02-2666 for any additional fee(s) that may be due in this matter, and please credit the same deposit account for any overpayment.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN

Date: *Nov. 10, 2004*

Anthony H. Azure
Reg. No. 52,580
Phone: (206)-292-8600

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